

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

UNITED STATES OF AMERICA, : Case No. 1:18-cr-109-1
:
Plaintiff, : **Sentencing**
:
- v - : Tuesday, May 10, 2022
:
ANDREY SHUKLIN, et al., : 1:00 p.m.
:
Defendants. : Cincinnati, Ohio

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE DOUGLAS R. COLE, DISTRICT JUDGE

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1 P R O C E E D I N G S

2 (In open court at 1:02 p.m.)

3 - - -

4 THE COURT: Good afternoon. We're here this
5 afternoon in open court and on the record in the matter of
6 United States of America versus Andrey Shuklin. It's case
7 number 1:18-cr-109, and it's defendant 1. It's the Court's
8 understanding we're here this afternoon for purposes of
9 sentencing.

10 Could I ask counsel to please enter their appearances for
11 the record.

12 MR. SINGER: Good afternoon, Your Honor. Matt Singer
13 and Megan Gaffney Painter for the United States.

14 THE COURT: Good afternoon.

15 MR. PINALES: For Mr. Shuklin, Your Honor, Mark
16 Pinales and Eric Eckes.

17 And we contacted the Court earlier, and Stephanie is in
18 my magic little box here. And she is plugged in, but I want
19 to advise the Court there is no recording going on.

20 THE COURT: Very good. I appreciate that. Thank
21 you, Mr. Pinales. Good afternoon.

22 And, sir, are you Andrey Shuklin?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: How would I correctly pronounce your
25 name? Am I doing it right?

1 THE DEFENDANT: You are.

2 THE COURT: Very good. And, sir, are you represented
3 in this proceeding by Martin Pinales, the attorney sitting
4 next to you?

5 THE DEFENDANT: Yes.

6 THE COURT: And, sir, we have an interpreter who is
7 present for you today. Do you need an interpreter to
8 understand English, sir?

9 THE DEFENDANT: In general, no, but if I will have
10 some problem, I will ask.

11 THE COURT: Very good. So there is an interpreter
12 who is available. If you have any questions about anything
13 I'm saying and would like a translation, he will be able to
14 provide it for you. But other than that, we won't use him
15 right from the get-go, all right, sir?

16 THE DEFENDANT: Thank you.

17 THE COURT: Very good. We better swear in the
18 interpreter just in case we need him, Scott.

19 (Interpreter sworn.)

20 THE COURT: Mr. Pinales, I'm correct, we're here for
21 sentencing in this matter?

22 MR. PINALES: Yes, Your Honor.

23 THE COURT: Okay. So I anticipate proceeding as
24 follows. It's first going to take me a few minutes to
25 establish the record for purposes of sentencing, and then

1 there are a number of disputes with regard to the sentencing
2 guidelines calculation. I anticipate listening to the parties
3 with respect to those disputes and resolving those.

4 And then I anticipate listening to any statements that
5 the lawyers may wish to make with regard to sentencing once
6 we've determined the appropriate guideline range, as well as
7 any statement that Mr. Shuklin may wish to make, if he wishes
8 to make any.

9 So on January 25, 2021, the defendant, Andrey Shuklin,
10 appeared before this Court and pled guilty to one count of
11 Racketeer Influenced and Corrupt Organization, otherwise known
12 as RICO, Conspiracy, in violation of Title 18,
13 Section 1962(d), of the United States Code. This charge was
14 contained in Count 1 of a document called an indictment.

15 In doing so, Mr. Shuklin pled guilty to a Class C felony,
16 providing a sentence of up to 20 years' imprisonment, up to
17 three years of supervised release, restitution, a \$100 special
18 assessment, and a fine that is the greater of \$250,000, or not
19 more than the greater of twice the gross gain or twice the
20 gross loss. Mr. Shuklin's plea agreement also requires
21 forfeiture.

22 Mr. Shuklin pled guilty to that charge pursuant to a plea
23 agreement under Federal Rules of Criminal Procedure
24 11(c)(1)(A). And, Mr. Shuklin, what that means is that the
25 plea agreement did not include an agreed sentence or even a

1 recommended sentence, but rather left sentencing to the
2 Court's discretion.

3 That said, the plea agreement did include some discussion
4 of the parties' view of the appropriate guidelines treatment,
5 a topic to which the Court will return in greater detail in a
6 bit.

7 Since the time the Court accepted Mr. Shuklin's plea, the
8 Court has received the probation office's initial presentence
9 investigation report filed on March 3, 2021, and the final
10 presentence investigation report filed on April 12, 2021.

11 The Court has also received sentencing memoranda from the
12 defense and the government, as well as their accompanying
13 exhibits, and a variety of victim impact statements.

14 Before proceeding further, I want to make sure that the
15 attorneys and Mr. Shuklin have received that information as
16 well.

17 Mr. Singer, have you received a copy of these documents?

18 MR. SINGER: Yes, Your Honor.

19 THE COURT: Mr. Pinales, have you received a copy of
20 these documents?

21 MR. PINALES: Yes, Your Honor, and we have shared
22 them with our client.

23 THE COURT: Very good. And, Mr. Shuklin, have you
24 received a copy of these documents?

25 THE DEFENDANT: Yes, Your Honor.

1 THE COURT: And have you had an opportunity to
2 discuss these documents with Mr. Pinales?

3 THE DEFENDANT: Yes.

4 THE COURT: Very good. So at this point, I would
5 like to briefly discuss the factual findings that I will use
6 for Mr. Shuklin's sentencing.

7 First, I'll note Mr. Shuklin entered a Rule 11(c)(1)(C)
8 agreement, and that plea agreement contained a statement of
9 facts that Mr. Shuklin signed and admitted during the plea
10 hearing. So absent any objection, I will rely on those facts.

11 Any objection from the government?

12 MR. SINGER: No, Your Honor.

13 THE COURT: Any objection from the defense?

14 MR. PINALES: No, Your Honor.

15 THE COURT: The facts in the statement of facts
16 attached to the plea agreement shall be included as part of
17 the record for sentencing.

18 Beyond that, ordinarily, I would also rely on the facts
19 contained in the presentence investigation report. But before
20 doing so, I would note that Mr. Shuklin has objected to
21 certain factual findings in the report.

22 Some of those factual findings relate directly to the
23 guidelines calculations and, thus, might impact those
24 calculations.

25 The relevance of the other factual objections is less

1 clear to the Court, but the Court's suggestion would be to
2 address all of Mr. Shuklin's factual objections after the
3 Court explains the probation officer's guidelines calculation,
4 and we can talk about the extent to which we need to resolve
5 any of those factual objections.

6 So is that approach acceptable to the defense,
7 Mr. Pinales?

8 MR. PINALES: Yes, Your Honor, but let me state to
9 the Court that we have spoken to Mr. Singer, and we're going
10 to submit on our objections and memorandum, Your Honor.

11 THE COURT: So you don't anticipate arguing further
12 on any of the sentencing guidelines issues, Mr. Pinales?

13 MR. PINALES: Yes, that is my understanding is that
14 both the government and I are submitting to the Court, because
15 I'm sure the Court has read it.

16 THE COURT: I have read it, that is true.

17 Any objection to that approach from the government,
18 Mr. Singer?

19 MR. SINGER: Your Honor, I had a conversation with
20 defense counsel. We are prepared to rest on the un-objected
21 to statement of facts in the plea agreement, the statement of
22 facts that is in the PSR that support the enhancements.

23 To the extent the Court -- we do have a witness that is
24 present.

25 THE COURT: Well, that's what I understood from your

1 filings, that you intended potentially to put on a witness
2 this afternoon, so I'm a little confused as to where things
3 stand now.

4 MR. SINGER: We had intended to call the witness,
5 Your Honor, specifically to address the leadership enhancement
6 that is at issue.

7 After speaking with defense counsel, and our
8 understanding that they are not going to -- that they're going
9 to submit on the papers, we believe that what is before the
10 Court now is sufficient to support all of the enhancements.

11 However, if the Court would like additional facts to
12 support, in particular, the leadership enhancement, we do have
13 a witness that we're ready to put on.

14 But as we sit here, we are prepared to rest, given that
15 we believe that the facts that are before the Court are
16 sufficient to support the enhancement.

17 THE COURT: So I'm a little confused at this point,
18 then, Mr. Singer.

19 I mean, so you're saying you're willing to rest on the
20 papers if the Court's going to rule in your favor, but if the
21 Court's not going to rule in your favor, you would like the
22 opportunity to put on a witness, or what are you saying?

23 MR. SINGER: Well, Your Honor, we do have additional
24 facts that we are prepared to support. We do not think they
25 are necessary. We're in a position to rest on the facts as

1 they are.

2 THE COURT: How long do you anticipate it would take
3 to put a witness on?

4 MR. SINGER: Ten minutes.

5 THE COURT: Oh, okay. Well, I mean, I'm sort of not
6 inclined to, sort of, announce the ruling and then have the
7 government say, well, we've got additional facts we can put on
8 if the ruling happens to be in favor of the defendant.

9 So I would encourage you to put on whatever record you
10 want to create with regard to these issues, and then the Court
11 will move on and we'll move forward.

12 So if you have a witness here, that's fine.

13 MR. SINGER: May I take a moment, Your Honor?

14 THE COURT: You may.

15 MR. SINGER: Okay. Your Honor, we would call Special
16 Agent in charge of the U.S. Department of Justice, Andrea
17 Kropf.

18 THE COURT: I think that's a good idea. I think it
19 would maybe be more appropriate in about five minutes, so why
20 don't we do that then.

21 MR. SINGER: Absolutely, Your Honor. I
22 misunderstood.

23 THE COURT: No. That's fine. I was just trying to
24 get our game plan here, so... all right.

25 So in terms of sentencing itself, under 18 United States

1 Code, Section 3553, the Court's job is to impose a sentence
2 that is sufficient but not greater than necessary to comply
3 with the purposes of sentencing.

4 I'm required to consider a number of factors in making
5 that determination. For example, the statute requires me to
6 consider, among other factors, the nature and circumstances of
7 the offense, the history and characteristics of Mr. Shuklin,
8 the kinds of sentences available, and the sentencing range
9 proposed by the non-binding sentencing guidelines.

10 Before turning to the various other statutory sentencing
11 factors, I want to begin with the last example that I just
12 mentioned, which is the sentencing guidelines.

13 United States Sentencing Commission's sentencing
14 guidelines seeks to quantify the nature of the offense on one
15 hand and the defendant's criminal history on the other and,
16 based on that combination, it provides a recommended range of
17 sentences.

18 Although the sentencing guidelines do not bind my
19 decision, I'm still required to establish the guideline
20 calculations that the Court believes applies to Mr. Shuklin's
21 offense here.

22 Now, as my description suggests, this calculation rests
23 on what amounts to a graph with two axes. The horizontal axis
24 is for prior criminal convictions, if any; the more of them,
25 the further out along that horizontal axis we go.

1 The vertical axis relates to the nature of the offense;
2 the more severe the offense, the further along that axis we
3 go. And the result, created by the combination of the two,
4 will identify a box on the graph that identifies a recommended
5 sentence.

6 And I need to establish on the record the guideline
7 calculation or, in other words, sort of that box that applies
8 to Mr. Shuklin's offense here.

9 Now, that's not an entirely straightforward undertaking,
10 as Mr. Shuklin objects to aspects of the presentence
11 investigation report's recommended sentencing guidelines
12 calculation.

13 So I intend to proceed as follows. First, I'll go
14 through the presentence investigation report's recommendation,
15 noting the areas of objection.

16 Then I'll discuss Mr. Shuklin's objections to the
17 presentence report and the government's responses. And then
18 I'm going to give the government an opportunity to put on the
19 witness, as they just mentioned, and then hearing further
20 argument, although from Mr. Pinales, it sounds like the
21 parties may be resting on the arguments in their papers.

22 The base offense to which Mr. Shuklin has pled guilty is
23 one count of RICO Conspiracy, in violation of Title 18,
24 Section 1962(d), of the United States Code. The guideline for
25 that violation is found in Section 2E1.1 of the sentencing

1 guidelines.

2 Under that section, the base offense level is either 19,
3 or the offense level applicable to the underlying racketeering
4 activity, whichever is higher.

5 The underlying racketeering activity applicable to
6 Mr. Shuklin is wire fraud, as he engaged in the emailing of
7 fraudulent documents to other coconspirators.

8 Wire fraud is governed by the United States Sentencing
9 Guidelines, Section 2B1.1. And here the probation officer
10 found that the offense level applicable to wire fraud under
11 that section resulted in the higher guideline. Thus, that is
12 the guideline that the PSR used to calculate the conduct in
13 this case.

14 According to Section 2B1.1(a)(1) of the guidelines, the
15 base offense level for wire fraud is seven. Pursuant to
16 Section 2B1.1(b)(1)(I), 16 are added because of the loss at
17 issue here, which was a total of \$2,467,807.39, exceeds
18 \$1.5 million but was less than \$3.5 million.

19 Pursuant to Section 2B1.1(b)(2)(A)(i), two levels are
20 added because the offense involved 10 or more victims. In
21 accordance to the above, the adjusted offense level, then, for
22 the wire fraud predicate offense is a 25.

23 The report indicates that a further two levels should be
24 added, under Section 2B1.1(b)(10)(C), if the offense involved
25 sophisticated means. Application Note 9(B) instructs that

1 sophisticated means encompasses especially complex or
2 especially intricate offense conduct pertaining to the
3 execution or concealment of the offense. Here the report
4 found that the two-level increase was proper.

5 In that regard, the report notes that Mr. Shuklin
6 operated the moving enterprise out of the business address in
7 Hollywood, Florida. However, he also operated the affiliated
8 companies associated with the moving enterprise in Ohio,
9 Maryland, North Carolina, Illinois, Texas, California,
10 Connecticut, Colorado, and Missouri.

11 Because the report found that Mr. Shuklin concealed the
12 offenses committed against the victims as he opened new moving
13 companies once a previous company was shut down by federal
14 investigators, this offense involved sophisticated means. If
15 the Court accepts that application, that would increase the
16 offense level from 2 to 27.

17 As noted, Mr. Shuklin objects to this two-level
18 enhancement, and the Court will address that objection in a
19 moment.

20 Pursuant to Section 2B1.1(b)(ii), two levels are added if
21 the offense involved the production or trafficking of any
22 authentication feature. Application Note 10(A) states that
23 authentication feature as the meaning given in 18 United
24 States Code, Section 1028(d)(1). That statute, in turn,
25 defines authentication feature as any hologram, watermark,

1 certification, symbol, code, image, sequence of numbers or
2 letters, or other feature that either individually or in
3 combination with another feature is used by an issuing
4 authority on an identification document, document-making
5 implement, or means of identification to determine if the
6 document is counterfeit, altered, or otherwise falsified.

7 18 United States Code, Section 1028(d)(7) further states
8 that the term "means of identification" means any name or
9 number that may be used, alone or in conjunction with any
10 other information, to identify a specific individual,
11 including name, Social Security number, date of birth,
12 official state or government driver's license or
13 identification number, alien registration number, government
14 passport number, employer or taxpayer identification number.

15 Here the report found that this two-level increase should
16 apply. Specifically, the report found that Mr. Shuklin, on at
17 least two occasions, and acting in concert with the other
18 members of the conspiracy, was altering other state-issued
19 driver's licenses in an effort to identify individuals as
20 owners of companies affiliated with the moving enterprise.

21 Therefore, according to the report, this offense,
22 involved with the production of an authentication feature and
23 a two-level increase, is appropriate, bringing the offense
24 level to 29. Again, Mr. Shuklin has objected to that
25 two-level enhancement.

1 Finally, Section 3B1.1(a) instructs a four-level increase
2 is appropriate if the defendant was an organizer or a leader
3 of the criminal activity that involved five or more
4 participants.

5 And the report found that this four-level increase was
6 appropriate. Specifically, the report found that Mr. Shuklin
7 was identified as the president of the moving enterprise, and
8 the conspiracy involved 11 codefendants and a number of
9 unidentified coconspirators.

10 The report also states that Mr. Shuklin coordinated and
11 directed lower level of employees of the moving enterprise and
12 other members of the conspiracy and associates of the
13 affiliated companies in a moving enterprise.

14 The report further observes that Mr. Shuklin was aware of
15 the illegal activities associated with the moving enterprise,
16 and was involved in email communication with other members of
17 the conspiracy in order to facilitate and further that
18 conspiracy. Additionally, Mr. Shuklin benefitted financially
19 more than any other defendant.

20 Accordingly, the report found that a four-point increase
21 was appropriate, which would bring the total to 33.

22 Mr. Shuklin also objects to this four-point increase.

23 Finally, a three-level decrease is appropriate, pursuant
24 to Sections 3E1.1(a) and (b), based on Mr. Shuklin's
25 acceptance of responsibility and timely plea. That means the

1 final offense level, as calculated by the probation officer,
2 is 30.

3 Next the Court observes that Mr. Shuklin has no previous
4 criminal history. That means his criminal history score is
5 zero, and his criminal history category is one, which is the
6 lowest of the six categories.

7 Based upon a total offense level of 30 and a criminal
8 history category of one, the recommended sentence would be
9 97 to 121 months. This range falls in Zone D of the
10 sentencing table.

11 United States Sentencing Guideline Section 5C1.1(f)
12 provides that if the applicable range is in Zone D of the
13 sentencing table, the minimum term shall be satisfied by a
14 sentence of imprisonment, meaning that the guidelines
15 recommend that Mr. Shuklin is ineligible for probation.

16 The maximum term of imprisonment, by statute, is
17 20 years. The recommended term of supervised release under
18 the guidelines is one to three years. By statute, the Court
19 may impose a term of supervised release of not more than three
20 years.

21 The statute also includes the potential for a fine. And
22 under Title 18, Section 3571(b) and (d), the maximum fine is
23 twice the loss at issue or, in other words, a total of
24 \$4,935,614.78.

25 The guidelines, meanwhile, suggest a fine range for this

1 offense from \$30,000 to that \$4.9 million number.

2 Under 18 United States Code, Section 3013, Mr. Shuklin
3 must pay a \$100 mandatory special assessment. And under
4 18 United States Code, Section 3663A, Mr. Shuklin must pay
5 restitution. It's the Court's understanding that the total
6 amount of restitution remains under investigation at this
7 time.

8 Mr. Shuklin's plea agreement also provides for
9 forfeiture.

10 With that, I believe I've established on the record the
11 sentencing guidelines calculations and recommendations, and
12 with that, I now turn to Mr. Shuklin's objections.

13 First, as noted, Mr. Shuklin objects to a two-level
14 enhancement for use of sophisticated means. In particular, he
15 argues that he did not relocate or participate in the
16 relocation of the scheme to another jurisdiction to evade law
17 enforcement or regulatory officials and, thus, he argues that
18 his conduct did not involve sophisticated means.

19 So as to that objection, does defense counsel wish to be
20 heard beyond their papers, Mr. Pinales?

21 MR. PINALES: No, Your Honor.

22 THE COURT: Does the government wish to be heard on
23 that issue?

24 MR. SINGER: No, Your Honor.

25 THE COURT: Very good. So next Mr. Shuklin objects

1 to the two-level enhancement the probation officer applied for
2 producing or trafficking of an authentication feature. That
3 enhancement was based on the probation officer's finding that
4 Mr. Shuklin altered state-issued driver's licenses in an
5 effort to identify individuals as owners of companies
6 affiliated with the moving enterprise.

7 Mr. Shuklin objects he did not alter state issued
8 driver's licenses and, thus, this enhancement is not
9 appropriate.

10 Mr. Pinales, do you wish to be heard further as to that
11 objection?

12 MR. PINALES: No, Your Honor.

13 THE COURT: Does the government wish to be heard
14 further?

15 MR. SINGER: No, Your Honor.

16 THE COURT: And, Mr. Pinales, am I correct that your
17 principal objection on that front is that Mr. Shuklin is not
18 personally involved in that activity, or what do you mean "he
19 wasn't involved"?

20 I mean, I've seen the emails in which he receives at
21 least one, I think it was two, driver's licenses that had been
22 altered to change the name of the person identified on the
23 driver's license.

24 MR. PINALES: Yes, Your Honor. He did receive them
25 but he didn't do them.

1 THE COURT: I understand that, but does it have to be
2 the defendant, or isn't it just that the offense involved the
3 use of all of it?

4 MR. PINALES: I submit on our memorandum, Your Honor.

5 THE COURT: Okay. And, Mr. Singer, I take it it's
6 the government's position that it doesn't really matter if a
7 given conspirator was involved, but rather the question is
8 whether the offense involved the conduct?

9 MR. SINGER: That's correct, Your Honor.

10 THE COURT: Yes. I think that's correct, and I'm
11 going to apply that enhancement.

12 I should have also made clear on the first one that I do
13 believe that the enhancement for use of a sophisticated means
14 is appropriate, given the web of various companies that were
15 set up, and the ways in which they were located.

16 I think there was an effort made to sort of stay one step
17 ahead of the regulators by creating various fictitious
18 entities and/or non-fictitious entities as successors to
19 companies that were going out of business, changing locations,
20 and all of that, so I do believe that enhancement applies.

21 So then there's the final enhancement, which is
22 Mr. Shuklin objects to the four-level enhancement applied for
23 leading or organizing a criminal activity of five or more
24 participants. He argues that he was not the president of all
25 the affiliated companies. He acknowledges he had a leadership

1 role in certain aspects of the moving enterprise, but notes
2 that this enhancement applies to organizers or leaders of,
3 quote, criminal activity.

4 He maintains that his involvement in and awareness of the
5 criminal activity varied and, overall, does not warrant an
6 organizer or leader enhancement.

7 Probation officer stated that Mr. Shuklin was the
8 president, and notes that he coordinated and directed
9 lower-level employees, other members of the conspiracy, and
10 associates of the affiliated companies, and that he was aware
11 of the illegal activities associated with the moving
12 enterprise, and was involved in email communications with
13 other members of the conspiracy in order to facilitate and
14 further the conspiracy.

15 And then he also benefitted financially more than the
16 other defendants, which is a fact that the Court also has to
17 take into account.

18 I take it, Mr. Pinales, you don't have anything further
19 you want to add on that topic?

20 MR. PINALES: I have nothing to add, but I would like
21 the ability of cross-examining the agent.

22 THE COURT: Absolutely.

23 And, Mr. Singer, now I believe would be an appropriate
24 time to call your witness if you wish to supplement the
25 factual record.

1 MR. SINGER: Your Honor, I apologize for
2 flip-flopping on this and going back and forth. We're not
3 going to present additional evidence, but we'd like the
4 opportunity to present additional argument, if that's --

5 THE COURT: You may. This would be the appropriate
6 time for that as well.

7 MR. SINGER: Your Honor, the government has presented
8 evidence attached to the sentencing memos. I'm not going to
9 repeat that here, but I would like to highlight certain facts
10 that are in the statement of facts and certain facts in the
11 PSR that I think establish this enhancement.

12 The defendant admitted he owned the affiliated companies
13 that made up the moving enterprise while he was working there;
14 that the businesses were doing business in Florida, where he
15 was working.

16 He admitted that it was the practice and scheme of the
17 moving enterprise to provide material lists, material false
18 statements to regulators, to third-party customers, and this
19 facilitated the fraudulent scheme.

20 He admitted that the enterprise reincarnated into
21 numerous new companies while he was the owner and working for
22 the enterprise.

23 In paragraph 51 of the PSR, this is an uncontested
24 paragraph for the statement of facts. It makes clear that his
25 name is on the bank accounts; that he was benefiting more than

1 any other member of the enterprise during the period. Again,
2 these are uncontested facts. And, in fact, he was using money
3 from the proceeds of the enterprise through the bank accounts
4 that he was -- had access to pay his mortgage.

5 So this is the owner of the enterprise, who is working at
6 the main business location, knowing that the enterprise is
7 committing fraud, having control over the bank records, and
8 using the bank records, the funds in the bank accounts for his
9 own personal needs, I think, one of the most material facts,
10 set of facts that are in the statement of facts.

11 So the defendant admits in the PSR objections that he
12 was -- had a leadership role in certain aspects of the
13 enterprise, but the statement of facts states that he made --
14 the enterprise made misrepresentations to federal authorities,
15 made misrepresentations to the fraudulent ideas that we've
16 already discussed in the other enhancements, made
17 misrepresentations to customers and the Department of
18 Transportation, lied about the cubic feet, extorted customers
19 and overcharged customers. That's the entire breadth of the
20 enterprise.

21 That is the functioning of the moving company;
22 interactions with the Department of Transportation,
23 interactions with customers, interactions with third parties
24 that they relied on to make the enterprise work.

25 He was the leadership. He was in a leadership role, and

1 he admits he was in a leadership role with regard to the
2 company. That was the company.

3 The company was based on fraud. It was based on
4 misrepresentations. So I believe that, based on the facts
5 that are before the Court now, this enhancement is
6 sufficiently supported.

7 THE COURT: Thank you, Mr. Singer.

8 Mr. Pinales, do you wish to be heard?

9 MR. PINALES: Yes, briefly, Your Honor. I think, in
10 reading the agent's reports, in reading the PSR, and in
11 looking at the totality of this, we're not arguing with the
12 Court that he was a leader. We don't believe he was the
13 kingpin. And we note that it is --

14 THE COURT: Well, can't there be more than one
15 leader? Can't there be more than one person who --

16 MR. PINALES: I believe there certainly can be more
17 than one leader and, in this case, I think there was more than
18 one leader. But if we're going to stack them against each
19 other, he is a lesser leader than one of the other leaders.

20 THE COURT: And I appreciate that. But under the
21 guidelines, it seems to me the question is whether he falls
22 within the category of leader. And you've already admitted
23 more than one person may fall into that category. But I think
24 once you're in there, it isn't like somebody gets four,
25 somebody gets three, and somebody gets two, right? It's

1 either you're in the category or you're not.

2 MR. PINALES: I hear you, but I want the Court to
3 understand that it's very uncontested, throughout all of the
4 reports that when he came and when he started into this
5 company, he didn't even speak English.

6 I mean, he came to this country not speaking English.
7 He's learned English since he's been here, but I believe that
8 he was used. That's about the best way I can relate that.
9 I'm not stating he wasn't a leader. I don't think he was the
10 leader.

11 THE COURT: And I think that that kind of comes
12 through. I don't know that I would even push back too hard
13 against that. I guess the question before the Court is
14 whether, under the sentencing guidelines, someone who is a
15 leader, even if not necessarily the leader, still qualifies
16 for a four-level enhancement.

17 And I think the way I read the sentencing guidelines, it
18 appears to me that anyone who is entitled the label of
19 "leader" qualifies for the four-level enhancement.

20 And so, Mr. Pinales, notwithstanding your argument, and
21 notwithstanding my appreciation for the facts that you've
22 raised, the Court concludes that the four-level enhancement
23 for being a leader was appropriately applied under the
24 presentence report.

25 So it's the Court's intention to use the presentence

1 report calculation, and that the applicable offense level for
2 the offense here that the Court will use is 30, and the
3 criminal history category is one, as I've already noted. I
4 don't think there's any dispute about that.

5 So based on that, the Court concludes that the advisory
6 guideline sentencing range, and I stress it is only advisory,
7 is 97 to 121 months.

8 I don't believe there's any need to address any of the
9 other factual objections that have been raised in the parties'
10 papers, although to the extent the parties want to refer to
11 their versions of the facts in connection with any comments
12 they may wish to make about sentencing, they are certainly
13 free to do so.

14 But, Mr. Pinales, in your view, is there any reason we
15 need to go line by line through those factual objections?

16 MR. PINALES: Not at all, Your Honor.

17 THE COURT: Very good. So with that, I think I've
18 established the guidelines calculation that I intend to use on
19 the record, and I am prepared to hear from the parties with
20 regard to sentencing itself.

21 Mr. Singer, does the government wish to be heard on the
22 matter of sentencing?

23 MR. SINGER: Yes, Your Honor.

24 THE COURT: Very good.

25 MR. SINGER: Your Honor, the government believes that

1 a guideline sentence is appropriate here. Like I just
2 mentioned, the fraud in this enterprise was pervasive. It was
3 part of every aspect of how it operated.

4 And I think stepping back and viewing what occurred
5 through the eyes of the customer is an important process here.
6 The Court has received victim impact statements from a number
7 of victims.

8 And I'll start that by saying this process of
9 reincarnation, reincarnate carriers, bumping after goods are
10 loaded, hostage-type situations, this is pervasive in the
11 industry.

12 And the individuals who started this, the defendant and
13 others, they didn't make this up, but they learned it. They
14 saw what the industry was doing, and they embraced it.

15 And they embraced it for many years, despite the fact
16 that they knew that regulators were looking at them, they knew
17 they were being investigated. There was a search warrant in
18 2017 at the premises.

19 FBI and Department of Transportation came in, took a
20 bunch of evidence, interviewed people and, despite that, they
21 continued doing the exact same thing. They continued
22 reincarnating into new entities, planning for the next
23 company.

24 Coming back to the customer. We have a person who has no
25 background in the moving industry. They don't know one

1 company from the next. They all look the same. They all know
2 that it's going to be expensive, and they know that they're
3 going to be moving their most precious goods.

4 They are relying on the companies who are in this
5 position of authority who can, you know, charge what they
6 want, and the customer really has to rely on the
7 representations that they're getting from this company.

8 And they have to rely on what they read from the
9 Department of Transportation. Is this a legitimate company?
10 Is this DOT number that allows them to move household goods,
11 is this legitimate? Are they the type of company that I can
12 trust my goods with? Those are all lies.

13 Oftentimes, these customers picked this company because
14 they got a good deal on the front end. They got a nice load
15 quote, they beat the competition. And what they saw online
16 supported the fact that this was a legitimate company that was
17 going to do them well.

18 They signed the binding contract, which is what they
19 believed, based on what they knew and researched, that this
20 was not going to move. This was not going to change. I know
21 what I'm going to pay. I'm going to owe \$5,000 for this move.
22 I've budgeted it. This is what I'm going to do.

23 What happens completely floors them. The company shows
24 up, they load the goods on to the truck, and all of the sudden
25 everything changes. They no longer have possession of all

1 their worldly possessions. They no longer have possession of
2 the things that they care -- the possessions that they care
3 most about, and they're told that they have to pay more. They
4 have to pay an additional cost to get those goods back if they
5 want them.

6 And this happened time and time and time again. What
7 they didn't know is that the -- that price that they were
8 being charged wasn't even real, it was fake; that the whole
9 system that it had created incentivized the foreman, who was
10 on the scene, to bump that up because he was going to get paid
11 more. He was going to get paid based on the charged cubic
12 feet, the false cubic feet, so he's jacking up the price at
13 every turn.

14 The customer doesn't know that. A lot of these
15 customers, these victims, they don't know that now. They
16 don't even know that they paid more. But hundreds and
17 hundreds and hundreds of emails internally between the foremen
18 of the warehouses all over the country, going back to the
19 defendant, and he's seeing this is what they're charged, and
20 this is the cubic footage that they're charged for having, and
21 this is what they actually have.

22 All of this extortion, all of this fraud, the customers,
23 the ones who did know and were able to complain to get the
24 Department of Transportation to intervene and to place
25 entities out of service, it didn't really matter because they

1 had another company in their back pocket that they were going
2 to reincarnate. And this was the business motto, and it
3 happened over and over and over again, and a lot of these
4 people, some of these people never got their goods.

5 THE COURT: Mr. Singer, in some ways -- you know, I
6 hear everything you're saying. In some ways, it strikes the
7 Court like these were commercial transactions done under
8 shady, false pretenses.

9 You know, part of me says, gosh, it seems more like a
10 civil wrong than a criminal wrong, you know, and we start
11 talking about putting people in prison for extended periods of
12 time.

13 I guess I just wanted to solicit your views as is the
14 RICO statute being used -- as you said, this is a common
15 practice in this industry.

16 Is the government sort of cracking down on this industry?
17 Is this an industry where RICO's being used more generally, or
18 is this, sort of, like an unfortunate example of somebody who
19 got caught in a RICO case that the government typically
20 wouldn't charge as a RICO case?

21 MR. SINGER: This case was charged as a RICO case,
22 Your Honor, because --

23 THE COURT: I know that.

24 MR. SINGER: I'm going to explain why it was charged
25 as a RICO case. It fits the model of -- first of all, the

1 racketeering statute does not say it has to be a mob boss.

2 THE COURT: I understand.

3 MR. SINGER: There has to be certain factors that are
4 involved. And one of the factors, the reason it's appropriate
5 is because the people at the top aren't the ones who are
6 actually on the ground committing the crimes. They're just
7 overseeing all the crimes that are being committed and are
8 benefiting from it.

9 So when Congress drafted the RICO statute, they
10 anticipated that wire fraud would be an aspect of that, and so
11 yes, there are -- the RICO statute being used in fraud mover
12 cases like this? I don't know of any.

13 THE COURT: Well, I mean, I think your sentencing
14 memoranda referred to the practices that were at issue here
15 is, sort of, common and pervasive throughout this industry.

16 I guess I'm wondering if that's the case. Is the
17 government bringing other RICO cases against other moving
18 companies or not?

19 MR. SINGER: It's very fact specific, Your Honor,
20 whether or not -- there was a big case that was just brought
21 in the Eastern District of Pennsylvania several months ago. I
22 spoke to the prosecutor. She didn't bring it as a
23 racketeering case because the facts supported proving it
24 through a substantive wire fraud conspiracy. The facts in
25 this case supported a racketeering --

1 THE COURT: Well, independent of the label, the
2 criminal label that's used, whether it be wire fraud or some
3 other kind of fraud, or RICO or whatever, I mean, are moving
4 companies that operate in this fashion being criminally
5 prosecuted?

6 MR. SINGER: Yes, they are, Your Honor. They are.

7 THE COURT: Okay. And, to your knowledge, one of the
8 factors the Court's going to talk about in a little bit is
9 that, you know, the Court has some responsibility to make sure
10 that similarly situated people who engage in similar conduct
11 receive somewhat similar sentences.

12 One thing that was notably absent from, I think, either
13 parties' sentencing memorandum was suggestions to the Court
14 about how similar conduct has been treated in other cases
15 around the country.

16 I know there's references to the sentencing guidelines.
17 But I mean more specifically to what's labeled in your
18 sentencing memorandum as a "common practice," I mean, what are
19 the typical sentences in cases like these?

20 MR. SINGER: I don't know, Your Honor. Honestly, I
21 don't know. There aren't a lot of examples. There aren't. I
22 mean, cases have been brought recently, but I can't say that
23 I'm aware of a lot of the sentences that have resulted from
24 them.

25 THE COURT: So there haven't been a lot of cases?

1 MR. SINGER: There are pending cases.

2 THE COURT: I see.

3 MR. SINGER: But ones that have been -- worked their
4 way through the system, I'm sure there are, I'm just not
5 prepared to speak on them.

6 THE COURT: Very good. I'm sorry. I didn't mean to
7 interrupt where you were going, Mr. Singer.

8 MR. SINGER: No, Your Honor. I appreciate the
9 question.

10 I think it is important to note that this type of fraud,
11 it is -- I mean, aside from the facts that it satisfies the
12 elements of wire fraud, among others, the reason that it is
13 necessary to charge these as criminal cases, and it's
14 necessary to charge them based on the full scope of the
15 criminal activity, is because it's -- each individual customer
16 loses, on the worst case, a couple grand.

17 THE COURT: Sure.

18 MR. SINGER: Or on the best case, you know, a couple
19 grand. They get bumped a little bit, probably not worth their
20 time to even address it.

21 On the worst case, though, they never get any of their
22 goods, and they are left with little ability to ever get that
23 money back or their possessions. They're not going to get
24 their mementos, their household goods, their baby pictures.
25 That's gone.

1 But they're also never going to be made whole from a
2 monetary standpoint. The companies, they reincarnated a newer
3 company. There is no civil mechanism to get this back. These
4 are customers who are victimized, and they have nowhere to
5 turn.

6 So I think that these are important cases. And I think a
7 sentence that recognizes the real issue that this is in the
8 moving industry throughout the country, and the real impact
9 that this is having on victims throughout the country, I think
10 it's an important fact that the Court --

11 THE COURT: And I noted that one of the things that
12 you described in your sentencing memorandum was -- I'll
13 paraphrase, but kind of the importance of signalling to others
14 engaged in similar conduct, sort of, the gravity of the
15 offense that they're committing.

16 I guess I wonder in that regard, I mean, you know, is a
17 72-month sentence, versus a 97-month sentence, versus an
18 84-month sentence, versus a 124-month sentence, I mean, I
19 would assume that for people engaged in this kind of conduct
20 in the moving industry generally, that any sentence measured
21 in terms of multiple of years is going to be seen as a, you
22 know, relatively stern signal about the potential consequences
23 of their behavior in which they're engaged.

24 Why 97 or 120 months? I know that's what the sentencing
25 guidelines recommends, I'm just not sure that when they put

1 this all together, that the sentencing guidelines were
2 contemplating the losses being losses from certain fraudulent
3 moves, versus maybe other kinds of activity that we can think
4 of being engaged in through a RICO Conspiracy.

5 MR. SINGER: Your Honor, I think that's an issue
6 across the criminal code. I mean, you can find -- there are
7 lively debates about the value of deterrents as far as
8 sentencing goes, and whether or not it deters the drug dealer
9 in a drug case, or the guy who is running guns, or the
10 fraudulent mover, there are varying opinions on whether or not
11 that any one sentence is going to deter a criminal's behavior.

12 I do think, though, in this particular context, where we
13 have a -- you know, this is more of a white collar industry,
14 and I think that people who are involved in the moving
15 industry take note when one of their own, who are doing
16 activities that's similar to what they're doing, is faced with
17 a very stiff sentence.

18 THE COURT: No, I don't doubt that at all. I guess I
19 just wondered in the sentence, if you'll just excuse the pun
20 you just said, what does "very stiff sentence" mean?

21 MR. SINGER: Our guidelines are the guidelines,
22 Your Honor.

23 THE COURT: All right. Thank you, Mr. Singer.

24 Mr. Pinales, do you wish to be heard with regard to
25 sentencing?

1 MR. PINALES: Yes, I do, Your Honor. We are not
2 arguing that this is not a RICO. The facts of this case can
3 be squeezed into the RICO statute. By that I mean we still
4 rely upon Your Honor to reach a sentence which is appropriate
5 but not greater than necessary.

6 I want to talk about the deterrents for a few moments and
7 advise the Court that in July, it will be four years since
8 Andrey has been arrested.

9 Now, he's been housed in the Butler County Jail. His
10 wife is in the courtroom today. Because of the distance and
11 the cost, this is the first time they have actually seen each
12 other in person.

13 She brought with her a picture, which I've given to
14 Andrey, which is of his daughter. And we talked about that in
15 the memorandum. She is five years old now. For four years,
16 he has not seen her.

17 The conditions in the Butler County Jail are county jail.
18 It is not a federal institution. And by that I mean there is
19 much difference. It is the equivalent of what would be, in a
20 federal institution, hard time.

21 And the reason it is hard time, he sees the light of day
22 when he comes to court. They do not have any outdoor
23 activity, or they're not allowed out. Yes, he can work out,
24 and he has worked out, but it is not the kind of incarceration
25 that we expect in a federal institution, nor is it the kind of

1 incarceration that he will receive. And he knows that he is
2 going to receive a sentence, Your Honor.

3 And so he has had an extremely hard time in the Butler
4 County Jail. I know the Court's going to remedy that by
5 giving him a sentence and he's not going to be in the Butler
6 County Jail, but I would like the Court to take into
7 consideration that for all of four years, he has had hard
8 time.

9 And we have supplied in our memorandum the situation of
10 Andrey's status in the United States.

11 I'd like to state to the Court that he went to college in
12 Russia and received what would be somewhat the equivalent of a
13 law degree, but he's never taken a bar exam, so he's never
14 been a lawyer.

15 But it has placed him, when he was in Russia, in a
16 position of being around a group of people where he was, sort
17 of, advising them and helping them do demonstrations in the
18 Soviet Union and in Russia.

19 And because of that, he got out, fortunately, and
20 received status here under the consideration of the United
21 States Government, which is what he has now. He is not a
22 U.S. citizen.

23 Now, I have spoken to a number of immigration lawyers,
24 because that's an area well out of my range. When Andrey is
25 finished with his sentence, the government will make a

1 determination as to what to do with him. I would say
2 normally, it would be a deportation. Under this status that
3 he has now, he can be deported back to Russia, which would be
4 a death sentence for him, he's convinced of that, particularly
5 with Russia today.

6 THE COURT: Actually, if I could stop you there,
7 Mr. Pinales. I mean, I'm wondering why are you asking for a
8 short sentence? It seems like, at least as long as he's
9 serving a term of imprisonment, he will be here.

10 MR. PINALES: I know, Your Honor. It's a two-way
11 sword. And I understand that. But I think it is more likely
12 than not, after his sentence is over, immigration will have a
13 determination as to, one, are they going to deport him, or are
14 they going to continue his status. And it could go either
15 way. If they decide to deport him, the next question is
16 where.

17 It's my understanding that he could be deported to
18 another country that this -- that our country has a
19 relationship with that is not part of the Soviet former union;
20 that it would be another country that is willing to accept
21 him. I don't know. We don't know. But that is certainly
22 something holding a greater punishment than if he was a
23 U.S. citizen, do your time, go home to your family. And I'd
24 like the Court to take that into some consideration. How it
25 plays, I don't know.

1 And I thought the very question or comment that the Court
2 raised to me, give him the longest possible sentence and he
3 doesn't have to worry about being deported to Russia at that
4 point, but he's going to be. He's young enough that he's
5 going to be.

6 Now, I'm asking that the Court, as I said, take into
7 consideration the Butler County situation, the fact of his
8 really wonderful past.

9 I mean, I have seen a lot of letters from a lot of people
10 over my career, but I have rarely seen such genuine letters
11 that support and love and care for him, care for Andrey.

12 THE COURT: If I could interrupt you on that for a
13 second, Mr. Pinales. I mean, one thing that concerns the
14 Court that I'm trying to reconcile. So I get these, as you
15 said, letters from friends, neighbors, about what a wonderful
16 person Mr. Shuklin is, and then I get hundreds of pages of
17 victim impact statements from others who have had dealings
18 with Mr. Shuklin.

19 And I guess one thing that the Court is left with is this
20 impression that it's great to be Mr. Shuklin's friend, but not
21 so good to be Mr. Shuklin's customer; and, you know, that some
22 of the largesse that he demonstrates with his friends is sort
23 of underwritten by the unfortunate circumstances of many of
24 his customers. And I'm trying to reconcile those two things.
25 If you have thoughts in that regard, I'd appreciate it.

1 MR. PINALES: I wish I had a magic wand that could
2 change the facts, but I can't. We recognize the injuries that
3 have been caused. We also recognize the law that states that
4 the Court -- whatever sentence the Court does give, he's going
5 to be under a supervised release.

6 And certainly, Andrey expects that under that supervised
7 release, he will begin working his backside off to do whatever
8 he can as to make proper restitution, Your Honor.

9 And will it make these people whole in the amounts that
10 have been there? I don't know. But I would hope he will do
11 his absolute best to compensate some of these victims. I
12 don't know if that answers your questions.

13 THE COURT: It does. I mean, I guess -- so one way,
14 you know, as I looked at the sentencing memorandum, I was
15 trying to take a holistic view of Mr. Shuklin's life.

16 One impression that kind of comes across is that he has
17 some reasons that he needed to leave Russia, and -- not
18 illicit. I mean, in some ways, good reasons, right? I mean,
19 he's involved in protests against some of the things that are
20 going on over there.

21 And so he ends up here and comes to our shores. And the
22 country kind of takes him in, and he responds by engaging in,
23 sort of, widespread fraudulent conduct that ended up not only
24 depriving people of money in certain circumstances, but
25 depriving them of memories, and photographs, and all the

1 things that sort of document a family's history, some of their
2 dearest possessions, and it's just -- it's hard to reconcile
3 all these different visions of Mr. Shuklin from all these
4 different angles.

5 But I think you would agree, it's a little sad that
6 somebody who has the opportunity to come here, and has an
7 educational background that should put him in a position to be
8 a contributor in society, instead, chooses to pursue the path
9 that he pursued. I'm troubled by that, to be honest.

10 MR. PINALES: And I can't argue with the Court on
11 that. And I think my client can't argue with the Court on
12 that. But he can and certainly has, as I said, with his
13 incarceration to date, seen the errors of his ways.

14 And I submit, with the support of his family, this Court
15 won't see him again. Thank you.

16 THE COURT: Thank you, Mr. Pinales.

17 Mr. Shuklin, sir, you are not required to speak, but if
18 you would like to make a statement, this would be an
19 appropriate time to do so.

20 THE DEFENDANT: Yes, Your Honor. Thank you for
21 letting me speak, Your Honor.

22 First of all, I want to apologize to customers of the
23 company, to these people. I don't know if somebody here today
24 and, unfortunately, I cannot do it directly for everybody, but
25 I hope Mr. Singer will convey my words to these people.

1 I want to say that I'm really sorry about all this
2 situation, what happened, what kind of experience they had.

3 I want to say that all this time when I spend in jail, I
4 was praying for forgiveness, and I really, really hope that
5 after these words, these words at least will make them feel
6 better.

7 I understand it's not enough, but I hope, in future, I
8 can do more to, I don't know, to cover what I -- the damage
9 happened to them, because I promise that I will try my best to
10 do.

11 I also want to apologize to Court, Your Honor, to
12 government, to my family, to my wife. I want to say I'm
13 really sorry for the hardship, what I brought to you, to our
14 family. And I also want to say thank you to you that, no
15 matter what, you standing by me, and it really means a lot to
16 me. I will never forget it.

17 Your Honor, I will not justify myself today because I
18 admit I made the wrong decisions in my life. And you check
19 and see that it's the biggest mistake what I make.

20 I just want to say that if purpose of jail is to make a
21 person realize what he did wrong and correct him, in this
22 case, I want to assure you that it's exactly what happened to
23 me.

24 I learned my lesson. I realized that it's no amount of
25 money can buy me a single second of time with the people who I

1 love, my family, my wife, my daughters, especially the little
2 one, Paulina. Next month, she will turn five, and she doesn't
3 even know me. For her, I'm just a character on the phone.
4 And every time when she's asking me when I come back home,
5 it's just killing me inside.

6 And I know for sure that I will never, ever again
7 jeopardize her happiness and any, any member of my family
8 happiness never again.

9 You know, in one book, I read words each -- I want to
10 make, I'm not going to say mantra for all my life, the rest of
11 my life. The words says, "Better ask permission first than
12 forgiveness later." And I want to say that that is exactly
13 what I am going to do in the future. I will always ask
14 permission first.

15 Your Honor, I know my guidelines is high, and then I see
16 the government asking to give me a lot of time today. But I
17 know you are the person who deciding today, and that's why I'm
18 asking you.

19 And I know I'm asking big thing. I'm asking you to
20 believe in me, to believe in the person who made the mistake
21 and regret and will regret until the end of my life of the
22 damage what I made. But I'm asking you for a second chance;
23 second chance to return to society, to my family, to be good
24 examples for my kids, to dedicate my life to be a better
25 person, and to fix everything where I may.

1 And if you give me this second chance, for me it's going
2 to be one of the biggest maturation of my life, knowing that
3 you trust me, and I will prove everybody that your decision
4 was right and accurate about me, and I promise you, Your
5 Honor, I will not let you down.

6 Thank you.

7 THE COURT: Thank you, Mr. Shuklin.

8 Are there any victims present in court who would like to
9 speak to sentencing?

10 Is there anyone who would like to speak to sentencing
11 generally? All right.

12 Mr. Pinales, did you say that this July would mark
13 48 months?

14 MR. PINALES: Yes, Your Honor. I believe it's the
15 31st. I could be wrong on the date, but it is this July.

16 THE COURT: Andrey Shuklin stands before the Court
17 after pleading guilty to Racketeering Influenced and Corrupt
18 Organizations Conspiracy, in violation of Title 18,
19 Section 1962(d), of the United States Code.

20 As noted, at this juncture, the Court's job is to impose
21 a sentence that is sufficient but not greater than necessary
22 to comply with the purposes of sentencing.

23 In doing so, the Court must look at the nature of the
24 offense, and the history and characteristics of the defendant
25 and, based on that, the Court must fashion a sentence that

1 reflects the seriousness of the offense but adequately deters
2 criminal conduct, that protects the public from further crimes
3 by this defendant, and that provides the defendant with needed
4 educational or vocational training, medical care, or other
5 correctional treatment.

6 I'd like to talk about some of those factors a little bit
7 and start with the nature of the offense.

8 Here there's no doubt that criminal activity occurred.
9 The moving enterprise described in the indictment enriched its
10 owners, operators, employers, members, and associates by
11 defrauding, extorting, and stealing from customers who hired
12 the affiliated companies to move their household goods.

13 The individuals also worked to promote and perpetuate the
14 moving enterprise, and to shield its criminal affairs from law
15 enforcement and customers by concealing the true owners,
16 operators, employees, and operations of the affiliated
17 companies.

18 There's little question that Mr. Shuklin was aware of the
19 affiliated companies that made up the moving enterprise, that
20 they worked out of the moving enterprise's main business
21 office in Florida. In fact, it appears that Mr. Shuklin has
22 been with the moving enterprise right from its inception.

23 And in connection with his activities with the moving
24 enterprise, he knew that it was the practice and scheme of the
25 moving enterprise to provide materially false statements to

1 federal regulators, to third-party companies, and to
2 customers.

3 He further knew it was the practice of the moving
4 enterprise to charge customers for moving more cubic footage
5 of household than were actually loaded by members of the
6 moving enterprise, and he furthered and facilitated this
7 fraudulent scheme.

8 He was also aware of the actual amount of space that was
9 used by the customers, which was less than what they were
10 charging the customers for. Email communications show his
11 knowledge of and participation in the fraudulent scheme.

12 In short, it appears that Mr. Shuklin occupied the
13 highest ranks of the moving enterprise, and it was a moving
14 enterprise that cost nearly 1,900 victims at least
15 \$2.4 million.

16 And as the Court's already noted, I've received victim
17 impact statements from a whole host of people who have had the
18 unfortunate experience of dealing with the moving enterprise
19 in one guise or another or in one iteration or another, and
20 their stories were, frankly, troubling.

21 I mean, it was people who lost a lifetime's worth of
22 possessions, and not just possessions like beds and couches
23 and furniture, but possessions that were personal to those
24 people; pictures, photo albums, important family documents.

25 You know, Mr. Shuklin, the activities of the moving

1 enterprise really had a detrimental effect on the lives of a
2 lot of people. And I get this wasn't a crime of violence but,
3 at the same time, it did in some ways do violence to the
4 families who were deprived of some of these very deeply
5 cherished goods. And the Court just doesn't think this is
6 something that can be taken lightly.

7 To a certain extent, I agree with the government. You
8 know, they point out this appears to be a common practice in
9 the industry, but it's so hard to know which way that cuts.

10 I mean, on the one hand, I guess, maybe it seemed like
11 less of a big step to walk down that path. At the same time,
12 though, it does seem like it's important that people
13 understand that -- and others engaged in these activities
14 understand it is significant, and it is criminal behavior, and
15 I think a significant sentence is warranted to try and send a
16 message to others who would do that as well.

17 And that's one of the purposes of sentencing under
18 18 United States Code, Section 3553, is to think about the
19 need for deterrence, and so that's an issue that has weighed
20 on the Court's mind.

21 With regard to Mr. Shuklin's background, as Mr. Pinales
22 noted, he was born in Russia. He's well educated. He has a
23 degree in jurisprudence from the Moscow Financial Academy. He
24 began work on a Ph.D. in economics, and then had to leave the
25 country when he sought political asylum in the United States

1 due to his association with the opposition party in Russia.

2 And, you know, again, as I've pointed out to Mr. Pinales,
3 that's sort of a double-edged sword. I get that you come to a
4 new country, as Mr. Pinales said, you don't speak English as
5 well as you could. At the time, I'm sure it was difficult;
6 but, at the same time, given this real opportunity, you turn
7 around and start down a path of criminal behavior that extends
8 for years.

9 I mean, it wasn't an inadvertent choice that you
10 recognized and then corrected. This was conduct in which you
11 engaged for years.

12 It doesn't appear that Mr. Shuklin has any mental health
13 or substance abuse issues. And it does come through to the
14 Court that he has a loving family life, and that he is, as
15 Mr. Pinales noted this afternoon, well liked in his community.

16 But that's a double-edged sword too. Sometimes the Court
17 has before it people who had no advantages in childhood, and
18 they came out of desperate circumstances and made choices that
19 reflected that very limited choice set that they had. And in
20 some ways, that seems like a mitigating factor.

21 Here, Mr. Shuklin, it appears that you could have chosen
22 to contribute in this country in a variety of different ways,
23 and the one you chose was the one we've just discussed and,
24 you know, it's a little hard to understand how you ended up
25 where you were, given where you started.

1 At the end of the day, I do think that a significant
2 sentence is warranted here. That being said, I do think the
3 guidelines are a little harsh considering the nature of the
4 offense at issue here.

5 As I noted, I think the RICO statute has -- the coverage
6 of the RICO statute has grown over the decades to include some
7 things that maybe Congress didn't originally contemplate.

8 But that being said, I have no doubt that a RICO
9 violation was proven here by the facts that were admitted in
10 the plea agreement.

11 But I do think that the sentencing -- the recommended
12 sentence under the sentencing guidelines is, perhaps, longer
13 than is necessary, in light of the conduct at issue here, in
14 part, because I think it's important that Mr. Shuklin get out
15 so that he can start attempting to do his part to repay the
16 customers who the moving enterprise has harmed through their
17 interactions with him.

18 So for all the reasons that I've mentioned during this
19 hearing, I find that a sentence of 78 months is sufficient but
20 not greater than necessary to comply with the purposes of
21 sentencing.

22 It's a relatively significant downward variance from the
23 sentencing guidelines but, for all the reasons I mentioned, I
24 do believe the downward variance is appropriate here.

25 I also find that a term of supervised release of three

1 years is appropriate, in part, because some of the conditions
2 that I'm going to talk about are directed at Mr. Shuklin's
3 financial activities when he's released from prison, and I do
4 want to make sure that he is making efforts to undertake the
5 restitution that the Court will also order as a part of this
6 sentence.

7 But before I move on and describe the terms of supervised
8 release, Mr. Pinales, do you have a request for where I would
9 recommend to the Bureau of Prisons that he serve his term of
10 incarceration?

11 MR. PINALES: I do, Your Honor. If the Court would
12 recommend -- and I've explained that it's merely a
13 recommendation.

14 THE COURT: The Court is using the word "recommend"
15 in a very --

16 MR. PINALES: Yes, but they try and do the best they
17 can because keeping a family together is paramount. I would
18 ask that an institution in southern Florida, as close to his
19 home and to his wife as is possible.

20 THE COURT: Where is she located, sir?

21 MR. PINALES: In the Miami area.

22 THE COURT: Okay. So the Court will recommend that
23 he serve his term of incarceration at a facility located as
24 close to Miami, Florida as possible. As I noted, I'm also
25 sentencing Mr. Shuklin to a three-year term of supervised

1 release.

2 And in that regard, Mr. Shuklin, I'll note that while on
3 supervised release, you must not commit another federal,
4 state, or local crime. You are prohibited from possessing a
5 firearm, ammunition, destructive device, dangerous weapon, or
6 unlawful controlled substance, and you are prohibited from the
7 unlawful use of any controlled substance.

8 That being said, the Court finds that there is a low risk
9 of future substance abuse on the part of this defendant and,
10 therefore, pursuant to 18 United States Code, Section 3583(d),
11 the Court waives the requirement of mandatory drug testing.

12 I should also note, since I failed to do that at the
13 outset and I apologize, that the 48-month sentence -- it's the
14 Court's intention that there be credit for time served on
15 that. And the sentence will reflect credit for time served,
16 which is the Court's understanding is roughly 48 months at
17 this point.

18 Certainly, back now to the supervised release,
19 Mr. Shuklin, you must also cooperate in the collection of your
20 DNA as directed by the probation office. And you must comply
21 with the standard conditions of supervised release that have
22 been adopted by this Court.

23 I believe that you have to report within 72 hours to the
24 probation office that's located in the district in which you
25 are incarcerated upon your release from incarceration, so I

1 just advise you to do that.

2 Because of the nature of your crime here and the fact
3 that you owe mandatory restitution, the Court is going to add
4 certain special conditions that are directed at your finances
5 while on supervised release.

6 In particular, the Court orders that the defendant must
7 not incur any new credit charges or open additional lines of
8 credit without the approval of the probation officer.

9 The defendant must provide the probation officer with
10 access to any requested financial information, and authorize
11 the release of any requested financial information, which the
12 probation office may share with the United States Attorney's
13 Office.

14 The defendant shall comply with the orders of the
15 Department of Homeland Security, Immigration, and Customs
16 Enforcement. If deported, the defendant shall not illegally
17 reenter the United States.

18 With regard to fines and restitution, the Court starts by
19 noting that Mr. Shuklin is required to pay the mandatory
20 special assessment fee of \$100.

21 Although the Court has the authority to impose a fine
22 under 18 United States Code, Section 3571, the Court finds
23 that Mr. Shuklin lacks the financial ability to pay that fine,
24 especially in light of the substantial restitution that the
25 Court is going to order and, therefore, the Court declines to

1 impose an additional fine.

2 In particular, Mr. Shuklin, to the extent that you are
3 able to amass financial means through employment or otherwise,
4 the Court would prefer that money go to restitution to the
5 victims of the moving enterprise rather than to payment of a
6 fine.

7 As to restitution of the victims. Pursuant to Title 18,
8 Section 3663A of the United States Code, restitution is
9 mandatory. The Court thus orders such restitution, which
10 shall be due immediately, with any unpaid balance to be paid
11 as a condition of supervised release.

12 Mr. Shuklin shall pay restitution jointly and severally
13 with the other defendants in this case, but the Court does not
14 yet have an amount for that restitution and will amend the
15 sentence to include the amount upon its determination.

16 In that regard, I note the government has filed a motion
17 in this case to set the restitution at the completion of the
18 sentencing of all the conspirators in this case, and the Court
19 anticipates ruling on that motion shortly.

20 But it is the Court's intent to amend the sentence in
21 this case to include a specific amount of restitution, and the
22 timing of that amendment, I think, the Court will enter in
23 response to the government 's motion.

24 While Mr. Shuklin is incarcerated, if he's working in a
25 non-UNICOR or grade five UNICOR job, he shall pay \$25.00 per

1 quarter toward the restitution or special assessment
2 obligation.

3 If working in a grade one through four UNICOR job,
4 Mr. Shuklin shall pay 50 percent of his monthly pay toward
5 restitution obligation or special assessment. Any change in
6 this schedule shall be made only by the order of this Court.

7 Within 60 days of the commencement of the term of
8 supervised release, the probation officer shall recommend a
9 payment schedule to the Court to satisfy any unpaid balance of
10 the restitution, and the Court will enter an order at that
11 point establishing a schedule of payments.

12 In his plea agreement, Mr. Shuklin also agreed to forfeit
13 certain property. Specifically, he agreed to the immediate
14 forfeiture, pursuant to 18 United States Code, Section 1963,
15 of any interest acquired or maintained in violation of
16 18 United States Code, Section 1962, which interests are
17 subject to forfeiture to the United States pursuant to
18 18 United States Code, Section 1963(a)(1).

19 Any interest in, security of, claim against, or property
20 or contractual right of any kind affording a source of
21 influence over any enterprise which the defendant established,
22 operated, controlled, conducted, or participated in the
23 conduct of, in violation of 18 United States Code,
24 Section 1962, which interests, securities, claims, and rights
25 are subject to forfeiture to the United States pursuant to

1 18 United States Code, Section 1963(a)(2).

2 And finally, any property constituting or derived from
3 any proceeds obtained, directly or indirectly, from
4 racketeering activity or unlawful debt collection, in
5 violation of 18 United States Code, Section 1962, which
6 property is subject to forfeiture to the United States under
7 18 United States Code, Section 1963(a)(3).

8 Pursuant to 18 United States Code, Section 3612(f)(3)(A),
9 the Court waives the requirement of interest on any balance of
10 restitution not paid within 15 days after judgment.

11 So with that, I have stated the sentence that I intend to
12 impose on Mr. Shuklin, and I must now ask if there are any
13 procedural or substantive objections to the sentence that have
14 not been raised.

15 Any objection from the government?

16 MR. SINGER: No objection, Your Honor. One point of
17 clarification?

18 THE COURT: Yes.

19 MR. SINGER: And I might have misheard. I apologize
20 if I did. I believe you made a reference to 48 months'
21 imprisonment.

22 THE COURT: 78.

23 MR. SINGER: It's 78 months?

24 THE COURT: Yes.

25 MR. SINGER: The 48 months is a reference to --

1 THE COURT: The time that I believed he's already
2 served, and for which the Court's intent that he receive
3 credit for time served, yes.

4 MR. SINGER: Thank you, Your Honor.

5 THE COURT: I thought I said that, but if I didn't,
6 it's a 78-months sentence and credit for time served. Either
7 way, I should have said it in the first instance and didn't.

8 With that clarification, any objection from the
9 government, Mr. Singer?

10 MR. SINGER: No, Your Honor.

11 THE COURT: Mr. Pinales?

12 MR. PINALES: No, Your Honor. And I understood that
13 what the Court stated needed no clarification. I understood
14 that, so...

15 THE COURT: Thank you for that clarification,
16 Mr. Pinales.

17 MR. PINALES: Thank you.

18 THE COURT: Okay. So the Court's previously stated
19 sentence shall be docketed as a final judgment.

20 So, Mr. Shuklin, what happened here this afternoon is,
21 per your request, I have imposed a sentence that is below the
22 guideline sentence.

23 Please do not take that as any kind of indication by the
24 Court that I think your conduct was appropriate or okay or not
25 criminal, or anything of the like.

1 As I said, I received an awful lot of letters from people
2 who, from what the Court can tell, were pretty significantly
3 damaged by the conduct that you undertook through your
4 participation in and leadership of the moving enterprise, and
5 I hope, hope, hope that you are being honest with the Court
6 when you say that you have learned your lesson and that you
7 will do what you can to try to repay the people who have been
8 harmed by your activity.

9 The Court does not impose a term of imprisonment lightly.
10 I understand you have a family. I understand you have a young
11 daughter, and I hope that you will be able soon to be back
12 with them.

13 The Court has imposed a term of imprisonment but with
14 credit toward -- sort of good time credit and credit for time
15 served, I think you will be able to be back with your family
16 relatively quickly.

17 I hope that you will not find yourself in a situation
18 where you need to be separated from your family again because
19 of poor choices, and I hope that this is a turning point.

20 I can't predict in any way what's going to happen with
21 regard to immigration consequences. That's just kind of
22 again, unfortunately, the reality of the situation in which
23 you've placed yourself. So that's another question that can
24 only be answered, I guess, in the fullness of time, but I hope
25 that things work out for you in that regard.

1 With that, Mr. Shuklin, the last thing I'd like to talk
2 to you a little about this afternoon is your right to an
3 appeal. I know you may have waived your right to appeal in
4 your plea agreement, but I'm nonetheless required to inform
5 you that if you wish to appeal my sentence, you must file a
6 notice of appeal within 14 days of entry of judgement.

7 So subject to any waivers that are contained in the plea
8 agreement, I'm hereby notifying both parties that you have the
9 right to appeal this Court's sentence.

10 Mr. Shuklin, if you are indigent and cannot retain an
11 attorney, you may apply for one, which the Court will then
12 appoint to represent you on your appeal.

13 In accordance with the provisions of Rule 4(B) of the
14 Rules of Appellate Procedure, I'm advising you that you must
15 file your notice of appeal with the clerk of the United States
16 District Court; in other words, this Court, within 14 days of
17 the Court filing its judgment.

18 Mr. Pinales, are you retained or appointed? I'm sorry.

19 MR. PINALES: We, at this point, are appointed.

20 THE COURT: Very good. So if you request, I will ask
21 Mr. Pinales to help you with that one-page document and that
22 alone. So let me ask you, sir, do you request that I order an
23 appeal be filed?

24 THE DEFENDANT: No.

25 THE COURT: Mr. Pinales, if Mr. Shuklin changes his

1 mind, will you protect his rights?

2 MR. PINALES: Absolutely.

3 THE COURT: Very good. The last topic on the Court's
4 agenda is Mr. Shuklin's custodial status. It's my
5 understanding, as we've discussed, that Mr. Shuklin is
6 currently detained.

7 Does the government wish to say anything further on the
8 matter regarding his custodial status pending assignment by
9 the Bureau of Prisons?

10 MR. SINGER: No, Your Honor.

11 THE COURT: Mr. Pinales, do you have anything you
12 wish to add?

13 MR. PINALES: No, Your Honor.

14 THE COURT: Very good. So the Court is going to
15 order that Mr. Shuklin be remanded to the marshals and
16 returned to detention pending his assignment by the Bureau of
17 Prisons.

18 With that, is there anything further that counsel wish to
19 place upon the record before we close the hearing this
20 afternoon?

21 MR. SINGER: No, Your Honor. Thank you.

22 MR. PINALES: No, Your Honor. Thank you.

23 (Proceedings concluded at 2:23 p.m.)

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25 C E R T I F I C A T E

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I, M. SUE LOPREATO, RMR, CRR, certify that the foregoing
is a correct transcript from the record of proceedings in the
above-entitled matter.

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/s/ M. Sue Lopreato
M. SUE LOPREATO, RMR, CRR
Official Court Reporter

June 2, 2022

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